Calendar No. 398

97th Congress
2d Session

SENATE

Report
No. 97-378

DEBT COLLECTION ACT OF 1981

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1249

INCREASING THE EFFICIENCY OF GOVERNMENT-WIDE EFFORTS TO COLLECT DEBTS OWED THE UNITED STATES, TO REQUIRE THE OFFICE OF MANAGEMENT AND BUDGET TO ESTABLISH REGULATIONS FOR REPORTING ON DEBTS OWED THE UNITED STATES, AND TO PROVIDE ADDITIONAL PROCEDURES FOR THE COLLECTION OF DEBTS OWED THE UNITED STATES

MAY 3 (legislative day APRIL 13), 1982.—Ordered to be printed

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REPORT
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DEBT COLLECTION ACT OF 1981

MAY 3 (legislative day APRIL 13), 1982.—Ordered to be printed

Mr. PERCY, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1249]

MAY 3 (legislative day APRIL 13), 1982.—Ordered to be printed

The Committee on Governmental Affairs, to which was referred the bill (S. 1249) introduced on May 21, 1981 by Mr. Percy, cosponsored by Mr. Andrews, Mr. Armstrong, Mr. Boren, Mr. Chafee, Mr. Cohen, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Domenici, Mr. Gorton, Mr. Hayakawa, Mr. Helms, Mr. Lugar, Mr. Packwood, Mr. Pryor, Mr. Proxmire, Mr. Roth, Mr. Rodman, Mr. Sasser, Mr. Symms, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Warner, Mr. Nickles, Mr. Melcher, Mr. Goldwater, Mr. Chiles, Mr. Kasten, Mr. Grassely, Mr. Heflin, Mr. Levin, Mr. Heinz, Mr. Simpson, Mr. Mattingly, and Mr. Mitchell to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. SUMMARY AND PURPOSE

The major purpose of this legislation is to facilitate substantially improved collection procedures in the federal government. The legislation provides for the following provisions which would promote improved debt collection: (1) referring delinquent debtors to credit bureaus while providing those debtors the same protection now afforded the private sector under the Fair Credit Reporting Act, (2)

requiring individuals to supply their social security number when applying for credit or financial assistance which would result in indebtedness to the government, (3) offsetting a federal employee's salary and certain benefits to satisfy general debts owed the government, (4) making it a federal penalty to assault federal employees collecting debts owed the government, (5) determining delinquent tax liability and seeking its resolution before extending federal credit, (6) disclosing mailing addresses obtained from the Internal Revenue Service on delinquent debtors to private contractors for debt collection purposes, (7) clarifying that administrative setoff of delinquent debts owed the government exists beyond the six-year statute of limitations, (8) assessing interest on debts owed the government and penalties on those debts that are delinquent, (9) easing the requirements for serving summonses in order to litigate delinquent debt cases, (10) reporting to Congress on debt collection activities, and (11) allowing federal departments and agencies to contract with private collection agencies for collection services.

II. Background

In recent years, increasing concern has been expressed in Congress and elsewhere over the increasing backlog of unpaid debts owed the federal government. A series of General Accounting Office reports beginning in October 1978 highlighted the necessity of improving the government's debt collection process. Since that first report, the GAO has issued nearly two dozen such reports on federal debt collection.

By August, 1979, it became apparent that the government's debt collection problems were both complex and serious and that an agency-by-agency review was needed of both credit management and debt collection practices in the federal government. Accordingly, the Debt Collection Project was created in August 1979 within the Office of Management and Budget. It was determined that the Project would both work with the individual departments and agencies to establish effective collection procedures, and also identify government-wide problems which impede agency collection efforts and make recommendations for solving these problems.

On November 20, 1980, at a Senate Governmental Affairs Committee hearing on debt collection, OMB released its findings for the first time. According to OMB, the total receivables due the government as of September 30, 1979, was $175 billion. The $175 billion in government receivables includes both foreign and domestic debt. Of this amount, $49 billion (28 percent) represents foreign debt that is owed by foreign governments and businesses. The remaining $126 billion (72 percent) is domestic debt owed by the individuals, businesses, educational institutions, state and local governments, and other organizations.

The greatest portion of debt owed the government is in the form of loan receivables, which total $150 billion. Most of this debt consists of long-term loans owed to 358 loan programs operated by 24 government agencies and departments.

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Magnitude of the problem

Clearly, the most disturbing information discovered by the OMB project was the amount of delinquent debt. In fiscal year 1979, $46.9 billion in loans, interest, unpaid taxes, and other debts due to be repaid to the government, $25.2 billion was delinquent, or about 54 percent of what was due to be repaid. Information in the agencies was not sufficient to determine whether an additional $2.4 billion were current or overdue and another $8.4 billion of loans were in some form of rescheduled or stretched-out status.

The $25 billion in delinquencies consists of $13.2 billion in unpaid taxes, $7.7 billion in overdue loans, and the remainder for overdue interest and overpayments to program beneficiaries.

Of the ten largest lending agencies, five had delinquency rates ranging from 59 percent to over 97 percent. The agencies with the worst collection records include the Department of Education, Veterans Administration, Small Business Administration, and Housing and Urban Development.

Total government receivables, and delinquencies, are growing at a rapid rate. For example, since fiscal year 1975, the amount of debt owed the government has grown from $90 billion to over $175 billion—a growth rate of 83 percent. It is more difficult to estimate the growth of delinquent debt owed the government, since reporting by the agencies has not provided reliable information. However, a 1979 General Accounting Office study projected that write-offs from unpaid debts are now increasing at a rate of 49 percent every two years.

Reasons behind these losses

Agencies do not have the motivation, resources, or tools to be aggressive and effective debt collectors. Serious problems exist throughout the entire credit cycle, from the initial screening of debtors to ultimate collection.

Generally, credit extension procedures do not provide for proper screening of applicants; resources dedicated to the collection process are invariably insufficient, and, in some cases, nonexistent; the litigation process is sluggish and ineffective; only limited use is made of interest charges to compensate for the government's cost of the money in the hands of the debtor; and, rarely are penalties imposed for late payment. Most important, perhaps, is that federal agencies are unable to use the same techniques and tools commonly used in private sector credit management and debt collection due to the Privacy Act and other legal restrictions.

These restrictions have effectively barred the government's use of credit bureau reporting, an essential and integral part of private sector credit management. Similarly, agencies have not had access to private sector collection agencies to supplement their collection efforts. Other legal restrictions have limited government's ability to screen applicants for unpaid debts, use IRS addresses as a means of locating debtors, offsetting other government benefits and payments as a means of collection, and other potentially effective collection techniques.

Consequences of uncollected government debts

The ramifications of these substantial losses are both serious and wide-ranging. When delinquent debts are not collected, debtors receive benefits to which they are not entitled. In addition, the financial burden of delinquent and defaulted debt increases the cost of government. For example, assuming a 12 percent interest rate, the government is paying over $10 million each day for interest on these uncollected debts. Finally, these uncollected debts contribute to a loss of confidence in the government and its programs by the taxpayers.

HEARINGS

The Committee held two hearings on S. 1249 on April 23, 1981 and June 17, 1981, in which the testimony of 11 witnesses was heard.

An April 23, 1981, six witnesses appeared in support of S. 1249. Senator Pete V. Domenici gave his full support for the legislation and urged that the Governmental Affairs Committee report the bill promptly. He indicated that the legislation could make significant savings without having to cut deep into needed social programs. David A. Stockman, Director of the Office of Management and Budget, described the findings of the OMB debt collection project, their intention to undertake a series of administrative actions to improve debt collection in the Executive Branch, and summarized the major legislative provisions that they need support for in the Congress (those contained in S. 1249). In addition, he described a projected savings of $3.4 billion from improved debt collection in fiscal years 1982–1984.

The next panel consisted of Elmer B. Staats, former Comptroller General of the United States, and Milton J. Socolar, Acting Comptroller General of the United States. The General Accounting Office representatives testified on the magnitude of government loan programs, and their general support for the legislation before the Committee.

The third witness was Morris B. Silverstein, Deputy Inspector General of the Veterans Administration. Mr. Silverstein described how the Veterans Administration had determined that about 66,000 federal employees owed the VA almost $37 million, and had had considerable difficulty collecting these debts due to their inability to set off federal employee salaries. He strongly supported legislation to allow setting off federal employee salaries, as provided in S. 1249.

The fourth witness was Robyn Godwin, Director of the Oregon Department of Revenue. Mr. Godwin explained how the Oregon Department of Revenue has successfully used a tax refund offset program as a means of collecting debts owed the State.

On June 17, 1981, the Committee held a second hearing on S. 1249 to give interest groups an opportunity to testify on the legislation. Five witnesses appeared and gave testimony on the bill.

The American Civil Liberties Union, represented by Mr. John Shattuck, Director of the ACLU Washington Office, testified that while the objective of the proposed legislation is certainly legitimate, the objective need not, and should not, be accomplished at the cost of undermining existing privacy rights protected by federal statute. The ACLU

expressed concern about four of S. 1249's provisions: amending the Privacy Act to exempt consumer reporting agencies from being considered contractors under the Act when accepting government information; screening federal credit applicants for unpaid taxes prior to extending government credit; requiring federal credit applicants to supply social security numbers; and, allowing debtor addresses obtained from the IRS to be redisclosed to agents of the government assisting in the collection of federal debts.

The ACLU had several objections to the Privacy Act amendment: First, they felt that while the Privacy Act provides for direct access to a debtor's records, the Fair Credit Reporting Act did not. Second, the bill's provision to allow credit bureau reporting did not require the government to attempt to locate the debtor prior to reporting information to the credit bureau. Third, the debtor's right to make corrections of his record would be diminished. Finally, the scope of permissible disclosure would be too broad, and there were insufficient limits on what could be disclosed to the credit bureau.

In response to these concerns, S. 1249 was amended in Committee to satisfy some of the problems expressed by the ACLU. The bill, as reported, requires that before debtor information may be disclosed, the agency head or his designee must verify the validity of the debt and make a reasonable attempt to locate the current address of the debtor. Also, the information to be disclosed to the credit bureau is limited to the name and other identifying information on the debtor, the agency to which the debt is owed, and the amount of the debt.

With regard to the ACLU's other concerns it should be pointed out that under the provisions of S. 1249, the debtor is given his full Privacy Act rights prior to any disclosure to a consumer reporting agency. For instance, before disclosure, the debtor is entitled to proper notification of the agency's intentions regarding disclosure, a full explanation of the debt, and an opportunity to make payment arrangements or dispute the debt.

The ACLU also objected to the bill's provision to allow screening of federal credit applicants for unpaid taxes, primarily, because the provision's language left open the possibility for any tax return information to be provided government agencies. In response to this concern, the Committee amended S. 1249 to limit such disclosure to that information necessary to determine whether or not an individual has paid his taxes. Also, any taxes in dispute could not be part of such a release of information.

Two other provisions opposed by the ACLU were those requiring federal credit applicants to supply social security numbers, and permitting addresses obtained by federal agencies from the IRS to be redisclosed to "agents" of the government assisting in the collection of federal debts (primarily private collection agencies). The Committee feels that both of these provisions are important to effective debt collection in the federal government.

The second witness was Leonard Rippa, Director of the National Taxpayer's Union. Mr. Rippa expressed his organization's strong support for passage of S. 1249. The National Taxpayer's Union, however, opposes the bill's provision which would raise the interest on delinquent taxes.

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The final panel of witnesses consisted of three representatives of the private collection agency industry: Thomas Cooper, Executive Vice-President of the American Collectors Association, Edward Burke, General Counsel of the G. C. Services Corporation, and Neal Sparby, Vice President of Payco American Corporation. The private collection industry also supports the enactment of S. 1249. The industry, however, strongly recommended that the bill include language to allow all government agencies to contract with private collection agencies for collection services. The Committee feels that the government should be able to use the services of private collection agencies. In addition, the Director of the Office of Management and Budget requested that the Committee amend S. 1249 to include such language. In response to these suggestions, a section was added to the legislation to permit any agency, except the Internal Revenue Service, to contract with private collection agencies for collection services.

WITNESS LIST

April 23, 1981

Pete V. Domenici, United States Senator.

David A. Stockman, Director, Office of Management and Budget.

Elmer B. Staats, Former Comptroller General of the United States.

Milton J. Socolar, Acting Comptroller General of the United States.

Morris B. Silverstein, Deputy Inspector General, Veterans Administration.

Robyn Godwin, Director, Department of Revenue, State of Oregon.

June 17, 1981

John Shattuck, Director, Washington Office, American Civil Liberties Union.

Leonard Rippa, Director, Congressional Affairs, National Taxpayers Union.

Thomas Cooper, Executive Vice President, American Collectors Association.

Edward Burke, General Counsel, G. C. Services Corporation.

Neal Sparby, Vice President, Payco American Corporation.

OTHER HEARINGS

On November 19 and 20, 1980, the Committee held hearings on similar debt collection legislation, S. 3160. At these hearings, the Committee received testimony from representatives of the credit bureau industry and officials from state government which successfully used credit bureau reporting to improve its collection efforts.

OTHER COMMENTS

The Committee received written comments from five organizations on S. 1249.

The Chamber of Commerce of the United States fully endorsed S. 1249. They stated, "S. 1249 will facilitate federal collection of debts owed the government and the overall process by which the government manages its financial transactions insofar as its lending programs are concerned." The legislation represents a significant element of the

Administration's economic recovery program, and is a necessary adjunct to the President's administrative efforts in improving federal debt collection processes.

The Veterans of Foreign Wars of the United States generally supports the pursuit of debt collection by any lawful means whether it be through consumer reporting agencies or local credit bureaus. However, the VFW objected to the bill's provision which would allow mailing addresses obtained from the Internal Revenue Service to be disclosed to private collection agencies. In addition, they do not support any legislation which would allow the government to contract with private colllection agencies as a means of liquidating government debts. The VFW further suggested that the bill amend the federal tax codes to allow offsetting of tax refunds to satisfy unpaid federal debts.

The National Treasury Employees Union had several comments on S. 1249. First, they urged the Committee to balance carefully the interests of the federal government in collecting overdue accounts with the rights of debtors. Secondly, they expressed concern that the S. 1249 provision which allows redisclosure of Internal Revenue Service addresses could hinder the agency's ability to perform its mission. Their primary concern, however, is that S. 1249 would permit federal agencies to administratively offset an unpaid debt from the paycheck of a federal employee who has been delinquent in repayment. They stated, ". . . Federal employees would be the only group of workers in the country whose pay could be withheld for the purpose of satisfying a debt. We remind the Subcommittee that federal wages, like those of private sector employees, are already subject to garnishment."

It should be pointed out that federal employees are the only group of employees in the country that are exempted from involuntary garnishment. While it is true, as the NTEU points out, that federal employees may have their wages garnished as private sector employees, garnishment for private sector employees can be imposed involuntarily, whereas federal employees must agree to have their paychecks offset. Without legal authority to involuntarily garnish an employee's wage, it is extremely difficult to collect from federal debtors.

The American Council on Education describes most of the provisions of S. 1249 as "worthy improvements." However, they had a specific concern with the authority to screen credit applicants against Internal Revenue Service files of delinquent taxpayers to determine whether such applicants are indebted to the government for unpaid taxes. Their primary concern with this provision is that it might cause serious delays in processing student loan applications and would not be useful in the case of student loans, since many applicants for these loans do not pay federal income taxes.

The Committee recognizes that such "cross-checking" could potentially delay approval of student loans. However, the Department of Education has indicated that the procedure would be a relatively easy computer process, similar to having a credit card number clear at a retail store. The Committee feels that it would be unwise to exempt any single government loan program from this clearance procedure—it is wholly within the responsibility and interest of the federal government to avoid extending credit to those who have defaulted on their federal tax obligations.

Finally, the National Revenue Corporation expressed its support of the basic philosophy of the legislation. They suggested, however, that specific language be added to permit government agencies to contract with private collection agencies. Such language was added in the Committee mark-up.

DISCUSSION

Government use of credit reporting

The use of credit bureaus is an essential, integral part of private sector credit management and debt collection. Probably the single most powerful motivation for individuals to pay their private sector debts is the threat of having their credit rating reflect a poor payment record. A poor credit rating often results in the loss of the ability to obtain additional credit. To date, federal agencies have not been able to use credit bureaus for credit management and debt collection purposes. As a result, there is no penalty from a "credit worthiness standpoint" for debtors who are delinquent or in default on their debts to the government. There is neither an impact on their credit rating for good payment performance nor any public record of their poor payment performance. The theory behind debt reporting by the federal government is that the availability of delinquency information to private sector credit grantors will induce debtors to pay their obligations to the federal government. Those who do not pay may find that other credit is unavailable.

The Committee feels strongly that credit reporting can have a beneficial effect on repayment of debts. In hearings before the Committee on November 19, 1981, representatives of the New Jersey Higher Education Authority testified that since they began using credit bureaus in 1976, the number of defaulted claims collected increased by approximately 100 percent. Of course, in the private sector, credit reporting is used extensively. In view of the fact that the federal government operates the largest credit institution in the world, the Committee feels that it should have the same collection tools available to private lenders—this is especially true because the federal government is assuming a higher risk than the private sector in lending in most of its programs.

Under the Privacy Act of 1974, credit reporting by agencies may be permissible as a routing use; 5 U.S.C. 552a(a)(7)(1976). However, under an interpretation by the Department of Justice, a credit bureau accepting credit information from a federal agency for purposes of maintenance and redisclosure would be maintaining a system of records to accomplish an agency function. Therefore, under the contractor provision of the Privacy Act, 5 U.S.C. 552a(m)(1976), the credit bureau would be subject to the Privacy Act. The credit reporting industry, which maintains information pursuant to the Fair Credit Reporting Act (15 U.S.C. 1681), has been unwilling to accept credit information from federal agencies under this condition. They have indicated that maintaining this information under the more restrictive provisions of the Privacy Act would be very costly for the industry, and that operating under two differing statutes is confusing and unnecessary.

S. 1249 overturns this interpretation by providing a new condition of disclosure for debt reporting and by amending the contractor sub-

section of the Privacy Act so that a consumer reporting agency accepting credit information shall not be considered a contractor for the purposes of the Privacy Act. Therefore, no consumer reporting agency will be subject to the Privacy Act by virtue of accepting credit information disclosed in accordance with the provisions of S. 1249.

Because disclosures of credit information are consistent with the current Privacy Act, S. 1249 does no damage to basic Privacy Act principles. The bill only modifies the contractor provision to avoid a controversial reading of the law proposed by the Justice Department.

Under the bill, the privacy interests of debtors remain fully protected by the Privacy Act, and the debtor relationship between the government and these debtors is not routinely disclosable. The privacy interest of all credit users, including those delinquent with respect to the federal government, are protected by the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq. (1976). S. 1249 provides that before a debtor's records are turned over to a consumer reporting agency the debt must be determined valid by the government agency, the debtor must be notified that his records may be referred to a consumer reporting agency and that he has a right to dispute the claim, and be given an opportunity to dispute the claim or make acceptable payment arrangements. The information to be disclosed by the government is limited to the name, address, social security number and other identifying information; the amount, status, and history of the claim; and the name of the agency under which the claim arose. Finally, the government must promptly notify the consumer reporting agency should there be any change in the status of the claim. At such point that the claim is accepted by the consumer reporting agency, the debtor is fully protected under the Fair Credit Reporting Act.

The Committee is aware that the 96th Congress enacted separate measures (Public Law 96–466 and Public Law 96–347) which authorize consumer reporting agencies to contract with the Veterans' Administration and the Department of Education in a manner similar to that contemplated in S. 1249. There is no intention on the Committee's part to repeal any of the authority granted those measures which are now law. To the extent that either of those measures affords protections to individuals which exceed those made available by S. 1249, the agencies would still be required to abide by the terms of those laws. Similarly, where an agency has existing authority to disclose for a purpose not contemplated by S. 1249, the agency's authority would not be affected by this measure.

Requiring Federal credit applicants to supply a social security number

One of the difficulties in the entire credit management process is making sure that you know with whom you are dealing. In many cases, borrowers use many different names or addresses which makes locating them and distinguishing among them very difficult. This is why private sector lenders routinely require credit applicants to supply their social security number.

The Privacy Act, 5 U.S.C. 552a(7)(a)(1) makes it unlawful for any federal, state or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security number. However, this prohibition does not apply to any disclosure required by federal statute, or for any agency maintaining a system of records in existence

and operating before January 1, 1975, if disclosure was required under state or regulation adopted prior to such date to verify the identity of an individual. It further requires that any federal agency which requests such a number shall inform that individual whether that disclosure is mandatory or voluntary.

Section 4 of S. 1249 would require each individual applying for credit, financial assistance, or payment which may result in an indebtedness to the United States to supply his social security number. The social security number would be used for verification of the applicant's identity in connection with credit management and debt collection purposes undertaken pursuant to the Federal Claims Collection Act of 1966 or other statutory authority.

Currently, most federal agencies are prohibited from requiring social security numbers on credit applications. Most agencies are severely hampered in their efforts to verify the identity of applicants, review the credit background for the amount of debt exposure and their general payment record, and trace and locate delinquent debtors. Agencies often have to resort to other more costly, less effective, and time consuming means to accomplish these essential debt management functions. For instance, under current law, federal agencies may obtain current addresses on delinquent debtors from the Internal Revenue Service as an extremely inexpensive, accurate, and prompt way of locating them. However, the only way agencies may access the Internal Revenue Service files is to supply the debtor's social security number. In addition, one of the most effective collection tools available is credit bureau reporting. Yet, here again, credit bureaus use social security numbers extensively, thus, access to credit bureaus by the government would be hampered without social security numbers of debtors.

The Committee feels that requiring applicants to supply their social security number will not only assist the government in improving its management of credit programs, but will actually enhance due process and privacy protections afforded the debtor because debtors will be more likely to be properly notified prior to consumer reporting agency notification, or legal action.

Federal employee set-off

Section 5 would provide for the offset of a federal employee's salary to satisfy general debts owed to the government.

The collection of general government debts from federal employees is a burdensome process for all involved. Payment of these debts is generally voluntary, and many federal employees are in a secure position for refusing or delaying payment. Little incentive exists for most employees to pay or for the employing agencies to help other agencies collect funds.

The Civil Service Code, 5 U.S.C. 5514, restricts the conditions under which a federal employee's salary may be withheld to satisfy unpaid debts to the government. Under the current law, a government agency may use a setoff procedure to collect a debt which arises from "an erroneous payment made by the agency to or on behalf of the individual." An erroneous payment is typically an overpayment made to the individual for salary or other benefits. Also, agencies may set off against current salary to collect unused advances for travel and transportation expenses.

The government's hands are tied, however, in cases where a federal employee defaults on a "general" debt owed the government, such as a student or other government loan. The Comptroller General has ruled that, "In the absence of specific statutory authority, no justification exists to set off general debts due the United States by its employees without their consent against current salary payments due the employees for their services, even though such debts be liquidated and undisputed . . ."

If an employee terminates employment, a general debt may be collected from final salary payments, from payment for accrued annual leave, or against annuity payments. Of course, these collection opportunities are insufficient because the government must often wait years until collection occurs, which is contrary to good management practices and the standard for aggressive timely collection as required in the Federal Claims Collection Standards. Also, because the six-year statute of limitations applies to collection of these general debts, in many cases the government would be unable to collect a just debt if the employee retires six or more years after the debt was incurred. In addition, interest is not charged when collecting from retirement contributions unless the creditor agency requests it be charged. Thus, with inflation, the real value of debts owed the government declines rapidly.

Therefore, agencies are unable to administratively deduct from a federal employee's current salary any amount to satisfy a general debt without the employee's consent. The only exception to this is the collection of delinquent taxes (26 U.S.C. 6331).

In the private sector, wage garnishment is often used as the ultimate means of collecting from a debtor. However, wage garnishment cannot be used against federal employees. "A judgment creditor cannot garnish (the) amount due his debtor by the United States without the consent of the United States to being sued . . ." [1] Thus, wage garnishment is not possible unless the employee consents to have his wage attached.[2]

The seriousness of this problem is illustrated by two recent "matching" programs in the Department of Education and Veterans Administration in which federal employees were identified as contributing substantially to the federal government's debt collection problems. In the Veterans Administration, 66,000 federal employees were found to have defaulted on approximately $37 million in education benefits. In addition, the Department of Education discovered that approximately 18,000 federal employees had defaulted on student loans totaling an estimated $18 million.[3]

Section 5 of S. 1249 would permit federal agencies to set off an employee's current salary to satisfy general debts. The Committee feels that such authority is necessary to promote effective collection in cases where federal employees are delinquent in repaying general debts because involuntary wage garnishment is not a collection tool available to the federal government. In cases where the federal government

[1] *Applegate* v. *Applegate*, 39 F. Supp. 887 (D. VA. 1941).

[2] An exception to this is wage garnishment for the collection of child support or alimony payments. Also, the Department of Justice has ruled that USPS employees may have their wages garnished where allowed by state law.

[3] Even more disturbing was that 49 of these employees were making in excess of $48,000 per year.

obtains a court judgement against a non-federal employee for non-payment of debt to the government, wage garnishment may be used to collect the debt. Therefore, it is reasonable that the federal government be able to set off a federal employee's salary for a similar debt.

The Committee feels that it is imperative, however, that federal employees be provided their full due process rights in any set off procedure. Accordingly, S. 1249 provides for a series of steps that must be taken prior to any set off, and that the debtor be further protected by the standards promulgated pursuant to the Federal Claims Collection Act of 1966.

The Committee emphasizes that administrative set off, by itself, will not promote effective collection from federal employees, but instead, is only one tool which can supplement a strong collection effort by federal agencies. The administrative set-off procedure should be used primarily as a last resort action where other administrative steps have been taken to collect the debt.

Protecting of Federal debt collectors

Section 6 provides that it is a federal offense to kill a federal employee collecting debts owed the government.

Currently, certain federal personnel in over 40 federal departments and agencies are protected under 18 U.S.C. 1111 and 1112 of the Crimes and Criminal Procedure Statute. Assaulting these federal personnel is a federal offense. Those covered under this statute include Internal Revenue Service officials, immigration officials, employees of the Federal Deposit Insurance Corporation, and National Credit Union Administration personnel, and many others.

However, federal employees routinely assigned to collecting federal claims, those in the Small Business Administration or Department of Housing and Urban Development, for example, are not protected under federal statutes. These federal collectors are regularly placed in difficult and hazardous positions. Federal collectors have been the subjects of death threats or threats of bodily harm to themselves and members of their family. A number of employees have, in fact, been physically assaulted while carrying out their duties. Most dramatically, on March 24, 1977, a Small Business Administration and another official were murdered in Chicago while engaged in collecting an SBA loan. Without federal coverage, the main recourse available to many federal collectors threatened or assaulted on the job is to take his or her complaint to the local law enforcement authorities.

The Committee feels that the government has a substantial obligation and interest in protecting its civil servants, especially those who are regularly in hazardous situations.

Section 6 will extend protections afforded under Federal Crimes and Criminal Statutes 18, U.S.C. 1114 to include federal collectors, thereby, making it a federal offense to kill a federal collection official.

Screening credit applicants

This Section provides that federal agencies may screen credit applicants against Internal Revenue files of delinquent taxpayers to determine whether such applicants are found to be delinquent in their tax payments.

Currently, federal agencies do not screen credit applicants to determine if they are delinquent on taxes owed the Internal Revenue Serv-

ice. Thus, the federal government is inadvertently extending credit to individuals who may be delinquent on federal taxes. The Committee feels that credit should not be unknowingly extended to those who have not paid their taxes.

In fiscal year 1980, the amount of delinquent taxes owed the federal government was approximately $17 billion. Just one year before, the federal government was owed approximately $7.7 billion in defaulted or delinquent loans. In view of the magnitude of these unpaid debts, the Committee feels strongly that it is in the best interest of the federal government, and the taxpayer, that lists of delinquent taxpayers and prospective loan applicants be cross-checked to help curb future defaults on government loans. In addition, encouraging loan applicants to pay delinquent taxes before receiving government credit will provide the Internal Revenue Service with needed support in collecting delinquent taxes.

The provision would make it lawful for the Secretary to disclose to any federal agency, whether a federal loan applicant has an outstanding liability with the Internal Revenue Service. However, this disclosure is strictly limited to information which is necessary in determining whether such applicants have outstanding liabilities to the Internal Revenue Service. Information regarding liabilities in dispute is not to be disclosed. The Committee feels that these restrictions are absolutely necessary to prohibit any tax return information from being disclosed which is not necessary in establishment whether the applicant is, or is not, delinquent in paying outstanding liabilities.

It has been suggested that this provision may be unnecessary because when a federal tax lien is imposed by the Service, the unpaid tax and the identity of the debtor become a matter of public record. At that time, other agencies could use this information in screening credit applicants, and the agencies could do so under current law. In addition, it has been argued that this screening objective could be satisfied under present provisions of the law. Section 6103(c) provides that tax returns and return information may be disclosed to "such person or persons as the taxpayer may designate in a written request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person."

The Committee maintains that Section 7 is, indeed, needed to achieve an effective screening process. Of the approximately $17 billion in unpaid taxes, less than half are covered by liens and are a matter of public record. Furthermore, if the credit granting agency wanted to screen a potential debtor, it would need to know where the lien is recorded— otherwise this process would be akin to looking for a needle in a haystack. In cases in which no lien was recorded, the credit granting agency would be unable to screen the applicant. With regard to obtaining a taxpayer's consent for disclosing the information to other agencies, it should be pointed out that many taxpayers may refuse to give their consent (presumably, many of those same taxpayers who might default on a government loan), and this would require submitting forms to all federal credit applicants and processing them—an extremely burdensome administrative process.

The Committee feels that the most effective and least costly way to screen credit applicants is under the procedure established in Section

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7 of S. 1249. Furthermore, this procedure will achieve its purpose without unduly compromising the confidentiality of tax return information, the faith the American taxpayers have in the federal tax system, and will maintain due process procedures for considering unpaid taxes which are in dispute.

This provision is not intended to make tax liabilities the only criteria for determining whether an individual is to receive federal credit, in cases where the agency is able to use such criteria. Lending agencies are encouraged to use other lawful means of determining the credit worthiness of applicants, such as obtaining credit bureau reports, where such determinations are permitted.

Internal Revenue Service information regarding outstanding liabilities which are in dispute shall not be disclosed under this provision. In "dispute" would include, but would not be limited to, any dispute which has been filed formally by an individual for consideration in an administrative or judicial proceeding. Should a final administrative or judicial decision be made there would not continue to be a dispute for the purposes of this section.

Disclosure of IRS addresses

This provision provides that debtor addresses obtained from the Internal Revenue Service by federal agencies may be disclosed to agents of the government for debt collection purposes.

One of the most important pieces of information when collecting a debt is the debtor's current address. In recognition of this, the Tax Reform Act of 1976 permitted the disclosure of return information by the Internal Revenue Service to other governmental agencies, for the purpose of assisting them with debt collection. Upon written request, the IRS may disclose mailing addresses of taxpayers to other federal agencies for their use in the collection or compromise of federal claims against taxpayers under the Federal Claims Collection Act of 1966 (Code sec. 6103(M)(2)). These mailing addresses may be used only by officers and employees of an agency who are personally and directly engaged in the preparation of any administrative or judicial proceeding pertaining to the collection or compromise of a federal claim. In addition, the IRS may disclose to the Secretary of Education the mailing address of any taxpayer who has defaulted on a student loan, for use by officers, employees, or agents (that is, private debt collectors) of the Department of Education for purposes of locating the taxpayer to collect the loan (Code sec. 6103(M)(4)). These addresses may be disclosed further to lenders, to state or local non-profit guarantee agencies, and to institutions of higher education.

This locating service has been very successful in helping federal agencies locate debtors. In 1980 alone, federal agencies used the IRS locator service to find 648,000 debtors.

Unfortunately, the Tax Reform Act of 1976 has been interpreted to prohibit federal agencies, except the Department of Education, from disclosing these addresses to consumer reporting agencies or collection agencies. The Committee feels that the government's only hope for collecting some $25–$35 billion in delinquent and defaulted debts from the more than four million debtors rests with greater use of private sector credit management tools; namely, private collection firms and consumer reporting agencies. However, if barred

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from providing these firms with current addresses on these debtors, the government will be unable to make effective use of their services.

The Department of Education's student loan programs account for only two of the approximately 358 loan programs operated by the federal government. An example of the problems created by the present prohibition on disclosure can be found in the Veterans Administration. Over about a two-year period, addresses for 150,000 accounts out of 985,000 new default claims at the VA were found to be erroneous and could not be obtained from Postal Service forwarding addresses. Total value of the accounts equaled $100 million. After one year, administrative collection efforts had been exhausted for approximately 45,000 of the foregoing accounts. Because the VA will be unable to disclose the addresses on these claims to consumer reporting agencies, which could verify the debtor's identity and provide essential information for determining ability to pay, approximately $30 million will go uncollected.

The Office of Management and Budget has estimated that allowing these addresses to be disclosed, under the conditions of this provision, will result in $350 million in collections that otherwise would have been written off.

Additionally, the IRS is significantly more effective and cheaper than other sources of debtor addresses. For example, the General Accounting Office requested new addresses from the IRS and a credit bureau, considered the next best source, for 65 addresses. The IRS provided 53 new addresses from the 65 account sample, while the credit bureau only supplied 15 new addresses. Also the IRS's cost for each address is 11¢, while credit bureaus charge an average of $1.25.

This provision of S. 1249 would extend permissible disclosure of IRS addreses to include "agents" of a federal agency for purposes of locating debtors solely for the purpose of collecting or compromising federal claims.

The Committee feels that disclosure under this provision must be strictly limited to protect the taxpaying public. The provision permits only addresses to be disclosed to agents of the government. Agents are those who are engaged directly in performing or assisting in collection functions for the federal government, presumably, private collection agencies who have contracted with the government to collect claims or consumer reporting agencies selling credit reports on government debtors. There are three ways in which the federal government may utilize private sector credit services.

First, consumer reporting agencies (credit bureaus) sell credit reports on debtors in order that lenders can determine credit worthiness or ability to pay. Secondly, consumer reporting agencies receive information on debtors from creditors as a means of establishing credit ratings. Finally, private collection firms actually collect delinquent accounts by making contact with the debtor.

The Committee intends that the disclosure provision will permit IRS obtained addresses to be disclosed to consumer reporting agencies for purposes of buying reports, and to private collection firms contracting with the government for colllection services. Any other redisclosure is not permitted under this provision.

The Committee emphasizes that use of these addresses by agents of the government is limited to what is necessary to sell a credit report

to the federal government in the case of consumer reporting agencies, or to collect or compromise a federal claim in the case of private collection agencies contracting with the government. Consumer reporting agencies and private collection firms may not "mix" addresses originally obtained from the IRS with other files used for other purposes. For instance, a private collection firm could not use an IRS address to locate a debtor for the purposes of collecting an overdue credit card or department store debt. Similarly, a consumer reporting agency would be prohibited from updating credit reports sold in the private sector with IRS addresses.

Dislosure by the agencies or third parties of addresses obtained from the IRS for purposes other than the foregoing debt collection purposes will be subject to the penalty provisions of section 7213(a) of the Internal Revenue Code.

The Committee envisions that disclosure of IRS addresses to "agents" of the government would be accomplished using procedures now used by the Department of Education. Generally, the federal agency would obtain addresses from the IRS, then disclose them to the "agent". These "agents" would not receive the addresses directly from the IRS, nor would they be permitted to request them directly from the IRS.

Determination of rate of interest

Section 6402 of title 26, United States Code, as amended, would raise the rate of interest on delinquent taxes to 100 percent of the prime rate and provide for an annual adjustment to the rate.

Current law establishes the rate at 90 percent of prime, with a biennial adjustment. The current rate is 12 percent, which is considerably lower than comparable private sector rates.

In order to encourage compliance with the filing payment requirements, the Internal Revenue Code provides for payment of interest and penalties. In the 93rd Congress, Public Law 93–625 was enacted to amend title 28 to provide a procedure whereby the interest rate to be used in the future would be kept up-to-date with changes in the money market rate. At that time (1974), the annual fluctuation was only 3.5 percentage points. Therefore, for administrative expedience, the rate was to be adjusted not less frequently than every two years. For 1980, the fluctuation in the money market rate was approximately 9.25 percentage points, or more than two and a half times greater than the fluctuation occurring in 1974. Therefore, to keep up with the changes in the money market rates, an annual adjustment is needed instead of the biennial adjustment now authorized.

Clarification to the statute of limitations

Section 9 allows collection of delinquent debts owed the government by administrative offset beyond the six-year statute of limitations.

Many overdue debts owed the government are now or will be six years old before offset becomes possible. The Justice Department has determined that the six-year statute of limitations prevents the government from collecting debts over six years old by means of offset. thus, the government will be unable to collect a just debt from many debtors because the statute of limitations has run out. For example, the Civil Service Code, 5 U.S.C. 5514, allows federal agencies to set off a federal employee's retirement pay in cases where he has not paid

a federal claim. However, if more than six years passes between the default and retirement, the government will be unable to set off the employee's retirement pay.

This revision to Section 2415 would allow administrative offset of delinquent debts owed the government against future payments benefits, or non-tax refunds due the delinquent debtor beyond the six-year statute of limitations.

Interest and penalty on indebtedness

This provision will provide for the assessment of interest on debts owed the government and penalties on those that are delinquent.

Generally, there is either no assessment for interest and penalties on debts owed the government or, if there is, the assessment is at rates that are considerably below market rates. This is in spite of the joint GAO/Justice Department regulations issued in the Federal Claims Collection Standards in April 1979 and subsequent Treasury regulations which require agencies to charge debtors interest on overdue payments. These include Agriculture, Labor, HUD, Interior, Defense, Health and Human Services, Veterans, and Treasury (except IRS). Other departments and agencies, such as Energy, assess interest but lack uniform department policies and procedures for doing so.

In the absense of interest charges for delinquent payments, debtors have little or no incentive to make timely payments. Also, debtors are likely to pay their private sector debts first and their government debts last. The Committee has concluded that this factor is a major contributor to the growing amount of delinquent debt owed the government.

To remedy this, the Committee is proposing an addition to the Federal Claims Collection Act, 31 U.S.C. 952 that provides for the following:

A recovery of the government's cost of carrying the debt in terms of both the cost of money and the administrative cost of carrying and processing delinquent debts.

An additional assessment, up to 6 percent per annum, on debts more than 90 days past due.

A uniform and standard rate of interest nationwide in order that debtors of a particular program are treated equally, regardless of location.

Exceptions where another statute, provision of regulations required by statute, a loan agreement or contract either prohibit or explicitly fix the charges for interest or penalty, or when the head of an agency or his designee waives the interest and/or penalty in accordance with standards published by the Comptroller General and Attorney General.

These provisions will generate an incentive for the debtor to pay while protecting the debtor and the social objective of the government programs by allowing flexibility in the assessment of the interest and penalty charges.

Service of summons

Section 11 of S. 1249 would permit U.S. Attorneys to use the mail, state and local law enforcement officials, or private contractors to serve legal documents in the litigation of debt cases, including foreclosure actions.

In recent years, there has been a tremendous increase in the number of debt collection matters referred to the Department of Justice for litigation. The duty of physically serving summons in debt collection actions imposes a serious burden on the United States. At present, summons in these cases must be served by a U.S. Marshal, unless service by mail is permitted in the state in which the summons is to be served. Necessarily, the U.S. Marshal's Offices must give first priority to other matters in the workload such as criminal cases, protection of judges, and supporting other federal agencies under special circumstances.

This provision would facilitate more efficient and expedited processing of federal debt claims by providing for the use of special appointments and the mail to serve legal documents in the litigation of debt cases.

Thus, the litigation of debt cases is hindered, contributing to the government's debt collection problems. The Committee feels that timely action on these claims, facilitated by prompt service of summons, will benefit the federal government as well as the debtor.

Agency reports on debt collection activity

One of the major problems contributing to the federal government's debt collection problem is that agencies have not been held accountable for their uncollected debts. The reason for this is that loan programs are usually "off-budget" items, not considered in overall spending ceilings established by the Congress. In the last ten years, new loan obligations have grown even faster than direct federal spending.

In addition, most federal agencies have not maintained accurate records on total receivables, delinquencies, due dates, interest charges, and other information critical to effective credit management. The accounting system in HUD, for example, lacked the capability to determine whether $300 million in receivables currently due was delinquent or not. Similarly, many agencies are incapable of compounding interest on delinquent loans because they do not maintain information on the accounts needed to compute such calculations.

The Department of Treasury has been required, by regulation, to compile annual reports of the status of federal debts. In reviewing these reports, however, the Committee concludes that they are not providing information needed for effective credit management and Congressional oversight.

Therefore, S. 1249 establishes eight reporting requirements for agency reporting.

Contracting for collection services

Section 13 permits federal agencies to contract with private collection services in recovering debts owed the United States.

The Federal Claims Collection Act of 1966, 31 U.S.C. 951–953, provides the general authority for claims collection activities by federal agencies. Under this Act, the Comptroller General and the Attorney General are designated to promulgate standards for collection of all claims of the United States. The General Accounting Office has traditionally maintained that federal agencies cannot legally use private contractors for the collection of government debts. In a letter to Con-

gressman Cabell in January 1971, the Assistant Comptroller General stated,

> Thus, it was not our intention to indicate that the head of an agency has authority to divest himself of the statutorily assigned function of collecting claims of the United States arising out of the activities of his agency and delegate this responsibility to a private debt collection agency.

Due to the lack of specific authority to use private collection agencies, the Department of Health, Education, and Welfare obtained specific statutory authority for use of private agencies in collecting student loan claims in the Education Amendments of 1976, 20 U.S.C. 1080(b).

GAO has modified its original legal opposition to the use of private sector collection agencies and has indicated that use of collection would be permissible as long as the federal agency head retains ultimate responsibility and control over the debts.[4] This would include retaining authority to compromise, litigate or terminate amounts due and resolve issues relating to validity of the debt.

In spite of the GAO April 17, 1981 ruling permitting government use of collection agencies, only the Department of Education, having specific statutory authority, has begun contracting with collection agencies for collection services.

Based on reports by the General Accounting Office, the Office of Management and Budget, and the Committee's own investigation, the Committee has concluded that collection agencies should be used much more extensively by the federal government. The volume of uncollected debts—$25–$35 billion—is so large that the government's own in-house collection resources could not aggressively attack this backlog. Also, most government agencies lack the incentive to be aggressive in pursuing uncollected debts. Finally, and most importantly, private collection firms have become extremely effective in their collection efforts because of their experience in this field and the built-in incentive for being good at what they do.

The Committee staff contacted several of the 24 federal agencies which have responsibility for collecting their own debts. Several agencies indicated that they were not sure that they could, or would, use the services of collection agencies, in spite of the April 17, 1981 ruling. For example, the Small Business Administration indicated that it is prohibited from using private sector collectors by Public Law 96–302. Similarly, the Veterans Administration's General Counsel's Office told staff that without specific statutory authority, the VA could not use collection agencies.

In addition, the American Collectors Association testified that they had had similar experiences in trying to determine which agencies will be contracting with private collection agencies. The Association recommended that language be added to S. 1249, providing statutory authority permitting federal use of collection agencies.

Finally, David Stockman, Director of the Office of Management and Budget, wrote the Committee in June, 1981, requesting that such language be added to S. 1249.

[4] 4 CFR 102.5, April 17, 1981.

Accordingly, the Committee feels that specific statutory authority permitting government use of private collection agencies is warranted. Section 13 of S. 1249 amends the Federal Claims Collection Act to authorize agencies to use private sector contractors in recovering debts owed the government. Authority to resolve disputes, compromise claims, terminate collection action, and to litigate will be retained by the federal agency and remain solely a federal responsibility. It also specifies that the contractor will be subject to the provisions of the Privacy Act, where applicable, as well as federal and state laws pertaining to debt collection, including the Fair Debt Collection Practices Act.

III. Section-by-Section Analysis of S. 1249 as Amended

Section 1

Section 1 contains the bill's title.

Section 1 of the Act may be cited as the "Debt Collection Act of 1981".

Section 2

Section 2 defines consumer reporting agency and exempts them from being considered contractors under the terms of the Privacy Act of 1974.

Section 2 makes three amendments to the Privacy Act of 1974, 5 U.S.C. 552a (1976). The first adds a definition for the term "consumer reporting agency". A "consumer reporting agency" is defined as described in the Fair Credit Reporting Act 15 U.S.C. 1681a(f), or, any person who, for monetary fees, dues, or on a cooperative non-profit basis, regularly engages in whole or in part in the practice of obtaining credit or other information on consumers for the purposes of furnishing such information to consumer reporting agencies, or, serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

The second amendment adds a new condition of disclosure to those included in subsection (b) of the Privacy Act of 1974, 5 U.S.C. 552a (b) (1976). Under this provision, an agency may disclose information to a consumer reporting agency in accordance with the provisions of section 3 of the Debt Collection Act of 1981.

The third amendment amends the contractor provision of the Privacy Act of 1974, 5 U.S.C. 552a(m) (1976), by adding a new paragraph at the end of the existing language. The new paragraph provides that a consumer reporting agency to which a record is disclosed under subsection (b) (12) of this section shall not be considered a contractor for the purposes of this section.

The Committee intends that consumer reporting agency disclosures shall not be treated as general routine uses that are made applicable to all systems of records. A separate notice should be published for each system from which credit information may be disclosed. Disclosure of information to a consumer reporting agency may be made from the primary system of records containing information about the claim. Disclosures may not be made indiscriminately from any system that happens to contain information about the debtor. In determining whether disclosure from a particular system is appropriate, an agency should apply the compatibility test used in evaluating routine uses.

Section 3

Section 3 provides that whenever the head of an agency or his designee attempts to collect a claim of the United States under section 3(a) of the Federal Claims Collection Act of 1966, 31 U.S.C. 952(a) or other statutory authority except any claim under the Internal Revenue Code of 1954, the head of the agency or his designee may notify a consumer reporting agency that a person is responsible for the claim if certain conditions are met by the federal agency.

This provision establishes procedures which must be followed by agencies prior to, and after, disclosure of debtor information to consumer reporting agencies. Such procedures are intended to maintain due process and privacy protections, while facilitating the routine use of consumer reporting agencies by the federal government.

Prior to any notification of a consumer reporting agency, the head of the agency or his designee must review the claim and determine that such claim is valid and overdue.

Also, the head of the agency or his designee is required to send written notice to the most recently available address for a person responsible for the claim, informing such person that the agency intends to notify a consumer reporting agency, in not less than sixty days after sending such notice, that the person is responsible for the claim. This written notice must be sent to the debtor's current address. If an agency knows or discovers that it is unable to contact the individual, the agency must make reasonable efforts to locate the individual prior to disclosure to a consumer reporting agency. Reasonable efforts may include obtaining an address from the Internal Revenue Service or seeking an address from a consumer reporting agency. The written notice must also include the specific information to be released, and a statement of such person's right to a full explanation of the claim and to dispute any information concerning the claim in the records of the agency.

In addition, an agency must provide any necessary procedure for such appeals by regulation. The review and reconsideration may also be satisfied by an existing appeal procedure. It is not the Committee's intent to establish an additional and duplicative procedure.

It is the Committee's intention to provide a reasonable opportunity for the debtor to dispute the claim and have the agency's initial decision that the debt is valid reconsidered. The Committee does not intend to give the debtor the opportunity to unreasonably and unjustifiably delay notification of the consumer reporting agency of the debtor's payment history. The Committee recommends that the government agency promptly consider the appeal made by the debtor, within 30 days if possible, and make a decision with regard to the appeal.

The agency is prohibited from notifying a consumer reporting agency if the debtor repays or agrees to repay the claim under a repayment plan which is agreeable to the head of the agency or his designee and is in a written form signed by such person during the 60-day period established by the written notice.

Finally, prior to any consumer reporting agency notification, the agency must obtain satisfactory assurances from such consumer reporting agency concerning their compliance with the Fair Credit Reporting Act and any other federal law governing the provision of consumer credit information.

Once an agency has referred debtor information to a consumer reporting agency, the agency must promptly notify the consumer reporting agency of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. Verification or correction is limited to information that was initially disclosed by the federal agency. The verification procedure is not intended to permit consumer reporting agencies to correct or verify information that has been acquired from federal agencies under other circumstances.

Disclosures of information that may be made to consumer reporting agencies are limited. Identification information is limited to the name, address, social security number, and other information necessary to establish identify. Information that may be disclosed about the claim is limited to the amount, status, and history of the claim and the name of the agency and program under which the claim arose.

Section 4

Section 4 requires that federal credit applicants supply social security numbers.

Section 4(a) provides that departments and agencies shall require each individual applying for credit, financial assistance, or payment which may result in an indebtedness to the United States or any agency thereof to furnish his social security number.

The Privacy Act, 5 U.S.C. 552a(7)(a)(1) and (2)(A), makes it unlawful for the federal government to deny any individual any right, benefit, or privilege provided by law because of such person's refusal to disclose his social security account number. However, this provision shall not apply to any disclosure which is required by federal statute. By meeting the requirement contained in the Privacy Act, 5 U.S.C. 552a(7)(a)(2)(A), Section 4(a) of S. 1249 will allow departments and agencies to require social security numbers to be furnished by individuals applying for federal credit.

Furthermore, the social security number obtained for these purposes may be used for verification of the applicant's identity. Such verification may include obtaining an address from the Internal Revenue Service, buying a commercial credit report on the debtor, or other measures necessary to properly identify the debtor. The use of the social security number under this section is solely for credit management and debt collection purposes pursuant to the Federal Claims Collection Act of 1966 or other statutory authority.

Section 5

Section 5 would provide for the offset of a federal employee's salary to satisfy general debts owed the government.

This provision amends the title and first sentence of 5 U.S.C. 5514(a) to allow the head of an agency or his designee, or the head of the postal service or his designee, when it is determined that an employee, member of the Armed Forces or Reserve of the Armed Forces is indebted to the United States, the amount of the indebtedness may be collected by deduction from the current pay account of the individual. In determining that the employee is indebted, the head of the agency or his designee should review the claim to make

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sure that it is a valid debt. For the purposes of this section, only those debts to which the United States is entitled to be repaid at the time of the determination by the head of the agency or his designee is to be collected by deduction from the current pay account of the individual. Under no conditions may an agency set off an employee's pay to collect a loan which is not yet overdue or delinquent or for which there is a formal, written repayment agreement. The "determination" is the point at which the head of the agency or his designee decides that the debt is valid. The type of indebtedness that may be deducted would include, but is not necessarily limited to, erroneous payments made to the employees, overpayments of benefits, salary or other allowances, travel allowances, federal loans or guaranteed or insured loans, or other indebtedness resulting from stolen property. The deductions may be made at officially established pay periods or in monthly installments.

The deductions may be made from basic pay, special pay, incentive pay, retired pay, or, in the case of an individual not entitled to basic pay, other authorized pay.

The amount deducted is not to exceed 25 percent of disposable pay. Disposable pay is net amount of pay after all taxes and retirement contributions have been deducted. This 25 percent amount is intended to parallel limits established in the Federal Code, 15 U.S.C. 1673, for the private sector. The 25 percent limit established in S. 1249 does not apply where the order of any court for the support of any person exists, where an order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act, or for any debt due for any state or federal tax. These exclusions parallel 15 U.S.C. 1672(b). The only exception to this limit is in cases where deduction of a greater amount is necessary to make the collection within the period of anticipated active duty or employment. Thus, if any agency has been officially notified, or the head of the agency has determined that an employee will not be employed by the government for a period of time sufficient to collect a debt through regular deductions of 25 percent of the employee's disposable pay, the agency may deduct more than 25 percent of the employee's disposable pay. The portion to be deducted should be determined by the head of the agency or his designee under this situation. Under no conditions should the agency deduct a greater portion of an employee's pay than is necessary to collect the debt during the anticipated period of employment.

If an individual's employment with the government or active duty ends before collection of the debt is completed, deduction shall be made from payments of any nature due the individual from the agency for their retirement or retired pay. Where the agency is deducting from the principle (from the lump sum of retirement benefits), the agency may deduct any portion of such principle necessary to collect the debt under this provision. However, if the agency is collecting the indebtedness through deductions from bi-weekly or monthly retirement payments, the agency may not deduct more than 25 percent of disposable pay.

Section 5 further amends 5 U.S.C. 5514 by providing for a series of due process procedures which must be taken in conjunction with any pay deductions made under this provision.

Prior to collecting any indebtedness of an individual under this section, the head of the agency holding the debt or his designee must provide the debtor with notification of the nature and amount of the indebtedness, the agency's intention to collect the debt through salary offsets, and an explanation of his rights under this subsection.

The debtor must also be provided with an opportunity to inspect and copy his record with respect to the agency's debt and the agency's action pertinent to that debt.

In addition, he must be permitted to have a review of the determination of the agency with respect to the indebtedness. This opportunity for review should be provided under procedures established in federal laws pertaining to claims procedures, the agency's regulations, or other laws or regulations established by the agency.

Finally, the debtor must be given an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, for repayment of the debt.

In establishing these procedures, it is the Committee's intention to provide the debtor with his full due process rights. It is not the Committee's intention to unreasonably delay the set off procedure where it has been determined that it should be used. Following written notification, the debtor should be given a reasonable amount of time to dispute the claim or make payment arrangements, but it should not be unduly extended, beyond 30 days, for instance.

The Committee encourages agencies to specify in the written notice when the set off will take place, unless inappropriate, if the debtor does not meet the criteria established in this subsection.

This provision is intended to provide a collection tool where other less severe actions have failed. Agencies are required to take other, less severe, collection actions before using set off, as provided in the Federal Claims Collection Act of 1966 and the standards promulgated thereof.

In most cases, the agency employing the debtor and the agency to which the debt is owed will be different agencies. Therefore, it is imperative that both agencies cooperate fully with each other in pursuing the debtor. For example, if the Department of Education determined that a Department of Labor employee had defaulted on a student loan, it would be the Department of Education's responsibility to notify the Department of Labor. The Department of Education would then notify their employee, under subsection (a)(2)(A). The Department of Education would then also be responsible for providing the debtor with an opportunity to inspect and copy the agency's record, have a review of the initial determination, and either pay the debt or enter into a payment arrangement. If the Department of Education determined that the set off should take place after these steps are completed, or the debtor never responded to written notification, the Department of Education would contact the Department of Labor, provide certification that they have satisfied the requirements of 5 U.S.C. 5514(b) and request that deductions be made against the employee's salary. The Department of Labor would then set off their employee's pay, as specified in this section, and transfer the appropriate amount to the Department of Education.

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Section 6

This section amends the Criminal Procedure Statute, 18 U.S.C. 1114, to include any officer or employee of the United States designated to collect or compromise a federal claim in accordance with the Federal Claims Collection Act of 1966 or other statutory authority. This amendment would make it a federal offense to kill federal collectors under the provisions of Criminal Procedures, 18 U.S.C. 1111 and 1112.

The Committee intends that the protection be provided officers or employees of the United States designated to collect federal claims. This amendment would not extend protection to the employees of private collection agencies or credit bureaus contracting with the federal government for collection of government claims.

Section 7

Section 7 amends the Internal Revenue Code of 1954, 26 U.S.C. 6103 (l)(5), to permit the Secretary to disclose to officers and employees of a federal agency whether a federal loan applicant has an outstanding liability for any tax, penalty, interest, fine, forfeiture, or other imposition under this title.

This disclosure is limited to information needed for purposes of, and to the extent necessary in, determining whether an applicant for a federal loan has outstanding liabilities. For the purposes of this section, the term "federal loan" means a loan of money by, or guaranteed or insured by, the federal government.

This provision is permissive in that it does not mandate that the federal lending department or agency request this information, nor does it mandate that the Secretary disclose such information. However, the Committee would expect that all federal departments and agencies extending credit screen credit applicants with the Internal Revenue Service before extending credit, either in the form of a direct loan or guaranteed or insured loan. The Committee also expects that the Secretary will, upon the request of any federal agency or department, promptly disclose whether the loan applicant has any outstanding liabilities with the Internal Revenue Service. It is imperative that the Internal Revenue Service respond as soon as practicable to the request of the lending agency.

It is envisioned that the Internal Revenue Service would maintain a list of individuals, using names, social security numbers or other identifying information, who have outstanding liabilities. The lending agency, upon receiving an application from an individual for a federal loan or loan guarantee, would ask the Internal Revenue Service whether this individual was on the list of individuals having outstanding Internal Revenue Service liabilities. There would be no need for the Internal Revenue Service to disclose any tax return information relating to the amount of indebtedness or other financial information—a simple "yes, the individual has liabilities," or "no, they do not," should be sufficient. A federal loan applicant eligible for this screening may be an individual, an organization, business, or other entity.

If it is determined that the loan applicant has outstanding liabilities with the Internal Revenue Service, the applicant should be encouraged to go to the Internal Revenue Service and pay any outstanding liabili-

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ties. This provision is not intended to be the sole and absolute means of denying credit to an individual, but rather, as an inducement to encourage applicants to settle tax liabilities before being granted federal credit. In cases where the enabling statute for a federal credit program would permit such outstanding liabilities to be a determining factor in granting credit, this provision is not intended to inhibit the discretion of the agency in loaning federal money, or insuring federal loans.

This section also provides that debtor addresses obtained from the IRS by federal agencies may be disclosed to agents of the government (consumer reporting agencies and private collection firms) for debt collection purposes.

Section 6103(m)(2) of the Internal Revenue Code is amended to allow the Secretary upon written request to disclose the mailing address of a taxpayer for use by officers, employees, or agents of a federal agency for purposes of locating such taxpayer for purposes of collecting or compromising a federal claim against the taxpayer. Such disclosure is to be in accordance wtih the provisions of section 3 of the Federal Claims Collection Act.

Section 6103(m)(2) of the Internal Revenue Code would permit the disclosure of IRS mailing addresses of taxpayers to other federal agencies for their use in the collection or compromise of federal claims against taxpayers under the Federal Claims Collection Act of 1966. These mailing addresses may be used only by officers and employees of an agency who are engaging in collection of a federal claim.

In addition, the IRS may disclose to the Secretary of Education the mailing address of any taxpayer who has defaulted on a student loan, for use by officers, employees, or agents (including private debt collectors) of the Department of Education for purposes of locating the taxpayer to collect the loan (Section 6103 (m) (4)). These addresses may be disclosed to lenders, state or local, non-profit guarantee agencies, and to institutions of higher hearing. This provision of S. 1249 would allow other federal agencies to disclose the addresses to "agents" for purposes of collecting or compromising a federal claim.

Under this provision, the head of an agency or his designee would make a written request to the Secretary to provide mailing addresses for taxpayers who have been determined to owe the Government for a federal claim, as is now routinely done under Section 6103(m)(2). However, under this provision of S. 1249, the head of the agency requesting such addresses would be permitted to disclose them to an "agent" of his agency which is directly involved in assisting the agency in collecting or compromising federal claim(s). The information to be disclosed is limited to the mailing address of the taxpayer (street and street number, town or city, and ZIP code). An "agent" of a federal agency is an organization which is engaged directly in performing or assisting a federal agency in collecting or compromising a federal claim. For purposes of this section, an agent of the government would include consumer reporting agencies and private collection firms. For purposes of this report, consumer reporting agencies are as defined in Section 2(a)(1) (i) and (ii) of S. 1249. Private collection firms are as defined in Section 13 of S. 1249.

The Committee intends that these mailing addresses be disclosed to "agents" of the government under only two circumstances: (A) to consumer reporting agencies in cases where a federal agency buys a

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credit report on a debtor or loan applicant, and (B) to private collection firms which have contracted with a federal agency to collect federal claims. This provision is not intended to permit federal agencies to disclose mailing addresses when reporting debtor information to consumer reporting agencies under Section 2 and 3 of S. 1249 ("Disclosure to a Consumer Reporting Agency"). The use of these addresses by agents of the government is limited to what is necessary to compile and sell a credit report to the federal government in the case of consumer reporting agencies, and to collect or compromise a federal claim in the case of private collection firms. Agents of federal agencies may not "mix" addresses with other files used for other purposes. For instance, a private collection firm could not use an address originally obtained from the IRS to locate a debtor for the purpose of collecting an overdue credit card or department store debt.

Disclosure by the agencies or third parties of addresses obtained by the IRS for purposes other than the foregoing purposes will be subject to the penalty provisions of section 7213(a) of the Internal Revenue Code. The use of this information by "agents" of the federal government is also subject to the Privacy Act of 1974, 5 U.S.C. 552.

While this provision does not mandate that the Secretary disclose mailing addresses upon request of another federal agency, the Committee fully expects that the Secretary will do so as soon as practicable. Any delays in forwarding these mailing addresses will undermine aggressive and effective collection efforts in the agencies.

This provision is not intended to restrict disclosure authority provided under section 6103(m)(4) for the Department of Education.

Section 8

This provision amends section 6621 of the Internal Revenue Code, to require the rate of interest for the purpose of subsection (a) of section 6621 be adjusted not later than October 15 of any year if the adjusted prime rate charged by banks for the 12 months ending with September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate which is then in effect. Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on February 1 of the immediately succeeding year. An adjustment provided for under this subsection may not be made prior to the expiration of 11 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

The term "adjusted prime rate charged by banks" means the average of the predominant prime rate for each of the 12 months ending with the month of September quoted by commercial banks to large business, as determined by the Board of Governors of the Federal Reserve System."

Section 9

This provision clarifies the Statute of Limitations to allow setting off future benefits for debt collection purposes beyond the six-year limit.

The provision amends 28 U.S.C. 2415 to permit the United States or an officer thereof to collect by means of administrative offset at any

time, any claim of the United States or an officer or agency thereof from money payable to or held on behalf of an individual.

The purpose of this section is to extend the time period that agencies are allowed to offset benefits of debtors. It is not intended, in any way, to expand the government's authority to offset benefits as a means of collection debts. For instance, the Committee is not authorizing the Internal Revenue Service to offset future tax refunds as a means of collecting debts. Under this section, the government may set off future benefits, as permitted by law, at any time. Litigation of federal claims would still be limited to the statute of limitations established by law. Thus, the government could not sue a debtor for payment of a debt once the statute of limitations passed. However, if a court judgment was obtained within the statute of limitations, the amount could be set off from future benefits, as provided by law, at any time.[5]

This section further provides that whenever the head of an agency or his designee attempts to collect a claim of the United States under section 3(a) of the Federal Claims Collection Act of 1966, 31 U.S.C. 952(a), he shall prescribe regulations and establish standards for the exercise of such administrative offset based on the best interest of the United States, the likelihood of collecting by such offset, and the cost effectiveness of carrying an open claim beyond 6 years.

Section 10

Section 10 requires agencies to charge interest and penalties on overdue debts owed the government.

This provision amends the Federal Claims Collection Act of 1966, 31 U.S.C. 952, by requiring the head of an agency or his designee to charge a minimum annual rate of interest on outstanding debts. The minimum rate is to equal the average investment rate for the Treasury tax and loan accounts for the twelve months ending with September each year, rounded to the nearest whole per centum. Each year the Secretary of the Treasury or the designee is to publish such rate not later than October 31 and shall become effective on the first day of the next calendar quarter. Quarterly revision of such rate is authorized when the average investment rate for the twelve months end of each calendar quater, rounded to the nearest whole per centum, is greater or less than the existing publish rate by two hundred basis points.

In addition, the head of an agency or his designee is required to assess charges to cover the additional costs of processing and handling delinquent claims. Also, they are to assess a penalty charge, not to exceed 6 per centum per annum for failure to pay any debt more than ninety days past due.

These requirements for interest and penalty charges do not apply if a statute, a provision of regulation required by statute, a loan agreement or contract either prohibit the charging of interest or penalty or explicitly fix the charges for interest or penalty. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest, and penalties charged in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance

[5] This provision does not affect whether a judgment must be obtained.

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with the requirements of this subsection. This subsection shall not apply to any claim under a binding contract executed before the effective date of this subsection.

Section 11

This provision of S. 1249 adds a new section to the Federal Claims Collection Act of 1966, 31 U.S.C. 952, which would increase the methods available for service of process in an action commenced against those debtors who have refused to repay the government.

It provides for service of legal process brought for the collection of a debt due and owing to the United States to be accomplished in accordance with the Federal Rules of Civil Procedure by certified or registered mail with return receipt requested. Such use of the mails is to be in accordance with the Federal Claims Collection Act of 1966, 31 U.S.C. 952. The service may also be accomplished in such a manner as the court, upon motion without notice, directs if service is otherwise unpractical under the Federal Rules of Civil Procedure or other provisions of statute.

This is intended to permit U.S. Attorneys to use the mail, state and local law enforcement officials, or private contractors to serve legal documents in the litigation of debt cases, including foreclosure actions.

State rules governing service will not limit the availability of service by mail under this section.[6]

The Committee feels that this provision is permissive in nature and need not be followed if an adequate method of service is otherwise available. The Committee envisions that efforts against those who avoid process will also be improved. The amendment specifically allows a court to fashion any method of service, without regard to Federal R. Civ. P. 4 or provisions of state law, upon a showing that service by any other means is impracticable. The availability of this section should not be limited to situations where avoidance of service can be shown, but should extend to other situations where available means of service are impractical. An alternative means of service reasonably calculated to give the defendant actual notice of the pendency of the lawsuit and which otherwise satisfied due process would be permissible under this provision.

Section 12

Section 12 of S. 1249 requires the Director of the Office of Management and Budget to establish regulations requiring each agency to report on the status of loans and accounts receivable.

It provides that the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency.

The report is to contain the following information:

1. The total amount of loans and accounts receivable owed to the agency are due to be repaid;

2. The total amount of receivable and number of claims that are at least thirty days past due;

[6] See *Hanna* v. *Plummer*, 380 U.S.C. 460, 473 (1965).

3. The total amount written off as uncollectable, actual, and allowed for;

4. The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

5. The total number of claims and total amount collected;

6. The number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

7. For each program or activity administered by the agency, the information described in clauses 1 through 6 of this subsection; and:

8. Such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.

Upon receiving these reports, the Director of the Office of Management and Budget is to analyze the reports received by each agency and report annually to the Congress on the management of agency debt collection activities, including the information provided to the Director under subsection (a) above.

The Committee emphasizes that the information transmitted to the Congress should be detailed enough to allow the Congress to determine the status of credit programs, yet not so voluminous that it is difficult to determine the overall status of credit programs. A model for effective presentation of this data is the January 1981 report issued by the Office of Management and Budget entitled, "Report on Strengthening Federal Credit Management."

This provision is not intended to replace or eliminate reporting now required by the Department of Treasury or the Office of Management and Budget, but rather, to supplement existing reporting requirements.

Section 13

This section provides for federal agencies to contract with private collection firms for collection services in recovering debts owed the United States.

The provision amends Section 3 of the Federal Claims Collection Act of 1966 31 U.S.C. 952 to allow the head of an agency or his designee to enter into a contract with any person or organization under such terms and conditions as the head of the agency or his designee considers appropriate for collection services in recovering indebtedness owed to the United States. This authority supercedes any other law governing the collection of claims owed the United States, except for collection of unpaid or underpaid debts under the Internal Revenue Code, U.S.C. et seq. "Persons or organizations" under this provision may include, but is not limited to, private collection agencies.

The Committee emphasizes that federal agencies should use competitive bidding in seeking contracts with persons or organizations contracting for collection services. Such competitive bidding should take into account the percentage of collections to be retained by the contractor, the amount expected to be collected overall, and other conditions determined by the agency head or his designee, including compliance with the Privacy Act of 1974 and the Fair Debt Collection Practices Act of 1978. The determining factor in selecting contractors should be: Which person or organization can collect the most money

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at the lowest fee or percentage and be in full compliance with the statutes mentioned above?

Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and initiate legal action.

Such persons or organizations contracting with a federal agency for collection services shall be subject to the Privacy Act of 1974, 5 U.S.C. 552a. This provision is intended to require persons or organizations contracting with the government for collection services to comply with the Privacy Act of 1974, 5 U.S.C. 552a, with regard to those claims such persons or organizations are servicing under the contract with the federal government agency(s) only. Persons or organizations which contract with the federal government and collect other claims for the private sector or other organizations are only required to abide by the Privacy Act of 1974 in handling federal claims.

In addition, such persons and organizations contracting with the federal government for collection services are subject to federal and state laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act, when applicable.

"Indebtedness" may include, but is not necessarily limited to, overdue loans, overpayments made to program beneficiaries, interest on loans or other debts, and other unpaid debts.

Pursuant to paragraph 11 of rule XXVI of the Standing Rules of the Senate, the following evaluation is provided.

S. 1249, the Debt Collection Act of 1981, is intended to increase the efficiency and effectiveness of federal debt collection efforts. The reforms contained in the bill are directed toward federal agencies and established procedures for the agencies to follow in doing business with credit bureaus and collection agencies. The bill does not impose additional forms of regulation on credit bureaus and collection agencies.

The provisions of the bill are intended to strike a reasonable balance between the legitimate interest of the federal government in collecting its debts and the personal privacy of individuals. Existing criminal and civil sanctions regarding the unauthorized disclosure of addresses obtained from the IRS are retained. In addition to these sanctions, agencies would be required to establish safeguards to ensure that the addresses are not incorporated in the general records of contractors or used by contractors for purposes other than the collection of federal debts. Once the addresses have been used by the agency or contractor, agencies would be required to return them to the Treasury Department or establish a method for making the addresses incapable of being disclosed in any manner for unauthorized purposes.

The use of Social Security numbers would also be restricted to ensure the individual's right to privacy. The numbers could be used only for matters directly relating to an individual's indebtedness to the federal government, such as identifying the individual and locating him should be change his address. Since most major federal loan programs were established prior to the enactment of the Privacy Act, and are therefore authorized to require applicants to provide their Social Security number, the impact of the bill on the personal pri-

vacy of individuals is minimal. It should also be noted that many private businesses routinely require credit applicants to provide their Social Security numbers.

The bill does not impose additional paperwork requirements on credit bureaus, collection agencies, or individuals who seek credit or other forms of financial assistance from the federal government. There will be a marginal increase in the paperwork of federal agencies relating to the request of addresses and return information from the IRS. It is expected that the procedures an agency must presently follow in requesting mailing addresses from IRS can be modified to include the release of certain tax return information. Federal agencies will also be required to establish procedures to ensure the confidentiality of the addresses and to report to OMB on an annual basis concerning these procedures. However, the safeguards to personal privacy included in the bill, along with the annual report to OMB, are not expected to substantially increase the paperwork of federal agencies involved in debt collection. The costs associated with these activities will be more than offset by the increased collections generated by the bill.

IV. Evaluation of Regulatory Impact

Paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 1249, the Debt Collection Act of 1981, is intended to increase the efficiency and effectiveness of federal debt collection efforts. The reforms contained in the bill are directed toward Federal agencies and establish procedures for the agencies to follow in doing business with credit bureaus and collection agencies. The bill does not impose additional forms of regulation on credit bureaus and collection agencies.

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V. Estimated Cost of Legislation

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee provided the following estimate of the cost of S. 1249, prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

November 18, 1981.

1. Bill number: S. 1249.

2. Bill title: Debt Collection Act of 1981.

3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, July 17, 1981.

4. Bill purpose: The purpose of this bill is to improve the federal government's efficiency and effectiveness in its debt collection activities. If enacted, S. 1249 would permit disclosure to commercial credit bureaus of information concerning delinquent and defaulted debts owed to the federal government. The government would also be authorized to utilize the services of private collection agencies in its debt collection activities. The bill would require individuals applying for credit with the federal government to furnish their social security numbers. Offsets would be permitted against the wages of federal employees indebted to the government, and the murder of federal debt collectors would be made a federal criminal offense. The bill would require the assessment of penalty charges on most delinquent debt owed to the federal government and it would permit U.S. Attorneys to use the mail, state and local law enforcement personnel, or private contractors to serve legal documents required for litigation of federal debt collection.

5. Cost estimate:

	Billions
Estimated costs:	
Fiscal year:	
1982	$0.1
1983	.2
1984	.2
1985	.1
1986	.1
Estimated collections:	
Fiscal year:	
1982	−.3
1983	−.6
1984	−.6
1985	−.2
1986	−.2
Net budget impact (outlays):	
Fiscal year:	
1982	−.2
1983	−.4
1984	−.4
1985	−.1
1986	−.1

6. Basis of estimate: It is expected that net savings to the federal government are likely to result from enactment of this bill. Increased administrative costs associated with the bill's implementation probably would be more than offset by increased recoveries. Preparation of a cost estimate for this bill is difficult, however, because of uncertainty related to potential agency and debtor response to the bill and deficiencies in available data. In the absence of reliable information, CBO has developed a series of assumptions upon which to base the estimated budget impact shown above. The results thus obtained are within a wide range that could follow from enactment of the bill. Most of the information estimate was obtained from the Office of Management and Budget's debt collection project, and reflects actual debt and delinquency data as of September 30, 1979.

The most significant budgetary impact would result from the provisions of Section 13 of the bill. Section 13 would permit some federal agencies to contract with private collection agencies for collection services. This provision would result in accelerated collection of some delinquent debt and would enable the government to make some collections that would not otherwise be made. Seventy percent of all delinquent domestic debts owed to the government are owed to the Internal Revenue Service (IRS), the Veterans Administration (VA), and the Department of Education. Because the bill would not authorize the IRS to contract out its collection efforts and since the VA and the Department of Education already have that authority, debts owed to those agencies have not been included in estimating the potential budget impact of Section 13 of this bill.

According to the debt collection project, $6.5 billion in domestic delinquent debt is owed to federal agencies with debt collection procedures affected by the bill. This cost estimate assumes that federal agencies would concentrate their collection efforts on serious delinquencies—in this case debt 90 days or more in arrears. At the end of fiscal year 1979, debt delinquent for at least 90 days was estimated at $5.7 billion. Much of this debt, $3.3 billion, is considered uncollectable by the affected agencies using current collection procedures. By applying pri-

vate collection agency recovery rates of 22 percent for debts owed to financial institutions to the estimated $3.3 billion in uncollectable debt, it is estimated that $0.7 billion in otherwise uncollectable debt would be collected by private agencies over three years. It is also assumed that the repayment of an additional $0.4 billion of debt could be accelerated by the means provided in the bill. Thus, of the $5.7 billion of outstanding debt at least 90 days delinquent, about $1.1 billion would be collected by private collection agencies over a three-year period. The average commission for these recoveries is estimated to be 40 percent ($0.4 billion), based on the industry's current commission rates. The commission cost incurred would be in addition to agency expenses for remaining debt collection activities. The net budget impact of this provision, after collections of current delinquent receivables are completed, is estimated to be savings of $0.7 billion over three years, plus the cost of government collections efforts that no longer will be necessary because of contracting with private collectors.

These estimates are for debt that is currently delinquent and collected between fiscal years 1982 and 1984. Additional savings would be achieved in fiscal years 1983 through 1986 because of more efficient collection of debt extended in those years. These collections would result in savings of approximately $60 million in fiscal year 1983, $90 million in fiscal year 1984, and $130 million each year in fiscal years 1985 and 1986, plus the cost of current government collections efforts that would no longer be necessary. To calculate the amount of new delinquent debt that would be affected by this bill in fiscal years 1983 through 1986 CBO has assumed that 50 percent of current 90-day delinquent debt became delinquent within the past year. This assumption, and the assumption that there will be a constant level of new delinquent debt have been used in calculating the potential five-year impact of this bill. If federal credit programs are reduced significantly, or if enactment of this section leads to a lower level of delinquencies, the budgetary effects of this bill would be reduced in later years.

Section 5 of S. 1249 would permit the garnishment of the wages, retirement pay, or other compensation due any federal employee who owes delinquent debt to the government. A computer match of Office of Personnel Management (OPM) files against VA records identified 66,000 federal employees with delinquent debt owed to the VA. This debt amounted to $37 million. It is likely that the portion of VA indebtedness owed by federal employees is more significant than debts owed to other federal agencies by employees. Computer matches have also been conducted with Department of Education debt records (and the Office of Education at the Department of Health, Education and Welfare prior to the establishment of the Department of Education). However, these matches are more dated and revealed that a much less significant portion of its debt was owed by federal employees. Because the available evidence indicates that the VA debt makes up most of the debt in this category, CBO's cost estimates assumes that the amount of debt subject to the provisions of Section 5 is approximately $40 million. CBO has also assumed that approximately $10 million, that would not otherwise be collectable would be collected over two years by salary offset from federal employees. To estimate potential collections under this section CBO applied the ratio between VA's estimate of uncollectable VA debt and VA 90-day delinquencies to the

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$40 million base. Administrative costs of collection would be $30,000 over two years, based on information provided by OPM about the cost of making automatic deductions from payroll checks. Additional savings would be expected from this provision because collection of delinquent debt through administrative offset is less expensive than other collection practices.

Section 7 of the bill would permit the Secretary of the Treasury to disclose to officers and employees of other federal agencies whether an applicant for a federal loan has any outstanding tax or other liability under the Internal Revenue Code of 1954. Section 7 also permits the disclosure of taxpayer addresses by the IRS for purposes of collecting federal claims against the taxpayer. Over time these provisions would be expected to reduce delinquent and bad debt by providing federal lending officers with better information upon which to base loan decisions and with which to locate debtors.

Section 8 of the bill is intended to adjust the interest rate charged on debts owed to the IRS. A similar provision was included in the Economic Recovery Act of 1981 (Public Law 97–34), which was enacted August 13, 1981. This provision, therefore, has no additional budget impact.

Several other provisions of the bill would improve efficiency of debt management and collections activities and would be expected to reduce costs and increase collections. Section 9 would specify that the statute of limitations for federal debt collection is not applicable to collections by administrative offsets. This provision would be expected to reduce the portion of debts written off as uncollectable. Section 10 would revise procedures for interest calculations and require the assessment of other penalties on debt more than 90 days delinquent, unless specific statutes, regulations or contract provisions prohibit such charges. Section 11 of the Federal Debt Collection Act of 1981 would amend the Federal Claims Collection Act of 1966 to permit U.S. Attorneys to use the mail, state and local law enforcement personnel, or private contractors to serve legal documents required for litigation of federal debt collection.

Federal agencies would be required to improve their record-keeping and reporting activities under the provisions of Section 12 of the bill. The Office of Management and Budget would also be required to report to the Secretary of the Treasury and the Congress each year on the status of agency loans, accounts receivable and debt collection activities. Since similar provisions have already been established administratively, enactment of this section would not be expected to have any additional significant budget impact.

7. Estimate comparison: None.

8. Previous CBO estimate: The CBO has also prepared a cost estimate on S. 1249, as ordered reported by the Senate Committee on Finance, September 15, 1981. Estimated collections are identical in both estimates but costs are estimated to be slightly higher in the Finance Committee version of the bill because of higher commission costs. The commission rate difference is because Finance Committee amendments to S. 1249 place certain restrictions on the use of federally-supplied information by collection agencies. Collection agencies would be expected to charge higher commissions under the more restrictive provisions.

9. Estimate prepared by: Judy Walker.
10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

VI. Rollcall Vote in Committee

The Committee considered S. 1249 during its mark-up on July 9, 1981. There was one amendment offered by Senator Percy.

The bill was agreed to unanimously by the Committee by voice vote. The following Senators were present.

Yeas (11)	Nays (0)
Roth	
Percy	
Stevens	
Danforth	
Cohen	
Durenberger	
Eagleton	
Chiles	
Sasser	
Pryor	
Levin	

VII. Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is printed in Roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

PART I—THE AGENCIES GENERALLY

CHAPTER 5—ADMINISTRATIVE PROCEDURES

* * * * * * *

Subchapter II—Administrative Procedure

* * * * * * *

§ 552a. Records maintained on individuals

(a) Definitions.—For purposes of this section—

* * * * * * *

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes

only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; [and]

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purposes for which it was collected[.]; *and*

(8) the term 'consumer reporting agency' means—

(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purposes of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

(b) CONDITIONS OF DISCLOSURE.—No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

* * * * * * *

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; [or]

(11) pursuant to the order of a court of competent jurisdiction[.]; *or*

(12) to a consumer reporting agency, consistent with the provisions of section 3 of this Debt Collection Act of 1981.

* * * * * * *

(m) GOVERNMENT CONTRACTORS.—*(1) Except as provided in paragraph (2),* [When] *when* an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. The purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under subsection (b)(12) of this section shall not be considered a contractor for the purposes of this section.

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PART III—EMPLOYEES

Subpart D—Pay and Allowance

CHAPTER 55—PAY ADMINISTRATION

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Subchapter II—Withholding Pay

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5511. Withholding pay; employees removed for cause.
5512. Withholding pay; individuals in arrears.
5513. Withholding pay; credit disallowed or charge raised for payment.
5514. Installment deduction for indebtedness [because of erroneous payment.] *to the United States.*
5515. Crediting amounts received for jury or witness service.
5516. Withholding District of Columbia income taxes.
5517. Withholding State income taxes.
5518. Deductions for State retirement systems; National Guard employees.
5519. Crediting amounts received for certain Reserve or National Guard service.
5520. Withholding of city or county income or employment taxes.

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CHAPTER 55—PAY ADMINISTRATION

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Subchapter II—Withholding Pay

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§ 5514. Installment deduction for indebtedness [because of erroneous payment] *to the United States*

(a)(1) When the head of an agency [concerned] or his designee, *or the head of the Postal Service or his designee*, determined that an employee, member of the [armed forces,] *Armed Forces* or [a] Reserve of the [armed forces] *Armed Forces*, is indebted to the United States [because of an erroneous payment made by the agency to or on behalf of the individual,] *for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is so notified by the head of another agency or his designee, or the head of the Postal Service or his designee*, the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made [only] from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed [two-thirds of the pay from which the deduction is made.] *25 percent of disposable pay*, unless the deduction of a greater amount is necessary to make the col-

lection within the period of anticipated active duty or employment. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from payments of any nature due the individual from the agency [concerned.] *for their retirement or retired pay.*

(2) Except as provided in paragraph (3) of this subsection, prior to collecting any indebtedness of an individual under paragraph (1) of this subsection, the head of the agency collecting the debt or his designee, shall provide the individual—

(A) written notification of the nature and amount of the indebtedness, the agency's intention to collect the debt through salary offsets, and an explanation of his rights under this subsection;

(B) an opportunity to inspect and copy the agency's records with respect to the debt;

(C) an opportunity for the review of the determination of the agency with respect to the indebtedness of the individual; and

(D) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, for the repayment of the debt.

(3) If any employee from whom deductions were made under paragraph (1) of this subsection retires or resigns or if his employment or period of active duty otherwise ends before collection of the amount of the indebtedness is completed, deductions shall be made from payments of any nature due the individual from the agency for his retirement or retired pay.

(4) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

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TITLE 18—CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

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CHAPTER 51—HOMICIDE

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§ 1114. Protection of officers and employees of the United States

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States

marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the secret service or of the Drug Enforcement Administration, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration; any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare, the Consumer Product Safety Commission, Interstate Commerce Commission, the Department of Commerce, or of the Department of Labor or of the Department of the Interior, or of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions, or any officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions, while engaged in the performance of his official duties, or on account of the performance of his official duties, or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties shall be punished as provided under sections 1111 and 1112 of this title. *Any officer or employee of the United States designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 or other statutory authority.*

TITLE 26—INTERNAL REVENUE CODE

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CHAPTER 61—INFORMATION AND RETURNS

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Subchapter B—Miscellaneous Provisions

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§ 6103. Confidentiality and disclosure of returns and return information

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(l) Disclosure of returns and return information for purposes other than tax administration.

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[(3) Disclosure of returns and return information to Privacy Protection Study Commission.—The Secretary may, upon written request, disclose returns and return information to the Privacy Protection Study Commission, or to such members, officers, or employees of such commission as may be named in such written request, to the extent provided under section 5 of the Privacy Act of 1974.]

(3) Disclosure of Certain Return Information to Federal Lending Agencies—

(A) In general.—Upon written request, the Secretary may disclose to officers and employees of a Federal agency whether a Federal loan applicant has an outstanding liability for any tax, penalty, interest, fine, forfeiture, or other imposition under this title.

(B) Restriction on disclosure.—The Secretary shall disclose information under subparagraph (A) only for purposes of, and to the extent necessary in, determining whether an applicant for a Federal loan has outstanding liabilities. Information regarding outstanding liabilities which are in dispute shall not be disclosed under subparagraph (A).

(C) Federal loan.—For purposes of this paragraph, the term "Federal loan" means a loan of money by, or guaranteed or insured by, the Federal Government or Federal agency to which a disclosure is authorized under this paragraph.

* * * * * * *

(m) Disclosure of taxpayer identity information—

(1) Tax refunds.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

(2) Federal claims.—Upon written request, the Secretary may disclose the mailing address of a taxpayer [to officers and employees of an agency presently and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of] *for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer for purposes*

of collecting or compromising a Federal claim against [such] *the* taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

* * * * * * *

(p) Procedure and recordkeeping

* * * * * * *

(3) Records of inspection and disclosure

* * * * * * *

(C) Public report on disclosures.—The Secretary shall, within 90 days after the close of each calendar year, furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which—

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d) [or (l)(3) or (6)] *or (l)(6)*, and the General Accounting Office the number of—

(I) requests for disclosure of returns and return information,

(II) instances in which returns and return information were disclosed pursuant to such requests,

(III) taxpayers whose returns, or return information with respect to whom, were disclosed pursuant to such requests, and

(ii) describes the general purposes for which such requests were made,[1]

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (i)(1), (2) or (5), (j)(1) or (2), (l)(1), (2), or (5) or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d) (or [(l)(3), (6), (7), or (8)] *(l)(6), (7), or (8)* shall as a condition for receiving returns or return information—

* * * * * * *

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d) or (l)(6), (7), or (8), return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner; and

(ii) in the case of an agency described in subsections (h)(2), (i)(1), (2), or (5), (j)(1) or (2), [(l)(1), (2), or (5), or (o)(1), the commission described in subsection (l)(3)] *(l)(1), (2), (3), or (5), or (o)(1) or the General Accounting* Office, either—

(I) return to the Secretary such returns or return information (along with any copies made therefrom),

(II) otherwise make such returns or return information undisclosable, or

[1] So in original, probably thet comma should be a period.

(III) to the extent not so returned or made undisclosable, ensure that the conditions of subparagraphs (A), (B), (C), (D), and (E) of this paragraph continue to be met with respect to such returns or return information, except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission or the General Accounting Office until he determines that such requirements have been or will be met.

* * * * * * *

CHAPTER 67—INTEREST

* * * * * * *

Subchapter C—Determination of Rate of Interest

§ 6621. Determination of rate of interest

(a) In general * * *

The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b).

(b) Adjustment of interest rate * * *

The Secretary shall establish an adjusted rate of interest for the purpose of subsection (a) not later than October 15 of any year if the adjusted prime rate charged by banks [during September of that year,] *for the 12 months ending with September of that year*, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate which is then in effect. Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on February 1 of the immediately succeeding year. An adjustment provided for under this subsection may not be made prior to the expiration of [23] *11* months following the date of any preceding adjustment under this subsection which changes the rate of interest.

(c) Definition of prime rate * * *

For purposes of subsection (b), the term "adjusted prime rate charged by banks" means [90 percent of] the average predominate prime rate *for each of the 12 months ending with the month of September* quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

§ 7213. Unauthorized disclosure of information

(a) Returns and return information

* * * * * * *

(1) Federal employees and other persons

* * * * * * *

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l)(6), (7), or (8), [or (m)(4)] *or (m)(2) or (4)* of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in an amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

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TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

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PART VI—PARTICULAR PROCEEDINGS

* * * * * * *

CHAPTER 161—UNITED STATES AS PARTY GENERALLY

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§ 2415. Time for commencing actions brought by the United States

* * * * * * *

(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting by means of administrative offset at any time, any claim of the United States or an officer or agency thereof from money payable to or held on behalf of an individual. Whenever the head of an agency or his designee attempts to collect a claim of the United States under section 3(a) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(a)), he shall prescribe regulations and establish standards for the exercise of such administrative offset based on the best interest of the United States, the likelihood of collecting by such offset, and the cost effectiveness of carrying an open claim beyond 6 years.

* * * * * * *

Section 3 of the Federal Claims Collection Act of 1966

(31 U.S.C. 952)

* * * * * * *

Section 3(a) The head of an agency or his designee, pursuant to regulations prescribed by him and in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General, shall attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to, his agency.

* * * * * * *

(d)(1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts equal to the average investment rate for the Treasury tax and loan accounts for the twelve months ending with September each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and shall become effective on the first day of the next calendar quarter. Quarterly revision of such rate is authorized when the average investment rate for the twelve months end of each calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by two hundred basis points.

(2) Except as provided in paragraph (3), the head of an agency or his designee shall assess charges to cover the additional costs of processing and handling delinquent claims and shall assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any debt more than ninety days past due.

(3) Interest and penalty charges under paragraphs (1) and (2) do not apply if a statute, a provision of regulation required by statute, a loan agreement or contract either prohibit the charging of interest or penalty or explicitly fix the charges for interest or penalty. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and penalties charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of this subsection. This subsection shall not apply to any claim under a binding contract executed before the effective date of this subsection.

(e) Service of legal process brought for the collection of a debt due and owing to the United States in accordance with this statute or other statutory authority shall be accomplished in accordance with the Federal Rules of Civil Procedure by certified or registered mail with return receipt requested or in such manner as the court, upon motion without notice, directs if service is otherwise unpracticable under the Federal Rules of Civil Procedure or other provisions of statute.

(f) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code, U.S.C. et seq., the head of an agency or his designee may enter into

a contract with any person or organization under such terms and conditions as the head of the agency or his designee considers appropriate for collection services in recovering indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and initiate legal action and that the contractor shall be subject to the Privacy Act of 1974, section 552a of title 5, United States Code, and, when applicable, to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act.

VIII. Committee Amendments

Purpose: To add provisions to the section on disclosure to a consumer reporting agency; to make permissive the use of the social security number to verify the identity of an applicant; to modify the provisions regarding installment deduction of indebtedness from an employee; to limit disclosure of certain tax information; to specify the contents of the report of each agency on debt collection activities; to authorize contracts for collection services; and to make technical corrections.

[In the Senate of the United States—97th Congress, 1st Session]

S. 1249.—To increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States

Amendments intended to be proposed by Mr. Roth.

On page 3, line 21, insert "(a)" before "Whenever".

On page 4, line 1, insert "after reviewing the claim and determining that such claim is valid and overdue," after "(1)".

On page 4, line 2, strike out "a" and insert "the".

On page 4, line 3, insert "(i)" after "(A)".

On page 4, line 9, insert "or" after the semicolon.

On page 4, between lines 9 and 10, insert the following:

> (ii) in the event that an agency does not have an address for such person, the agency has taken reasonable action to locate such person;

On page 5, between lines 19 and 20, insert the following:

> (b) The head of the agency may not release to consumer reporting agencies under subsection (a) information other than—
>
> (1) the name, address, social security number, and other information necessary to establish the identity of the person;
>
> (2) amount, status, and history of the claims; and
>
> (3) the name of the agency under which the claim arose.

On page 5, lines 21 and 22, strike out "individuals" and insert "each individual".

On page 5, line 24, strike out "their" and insert "his".

On page 6, line 1, strike out "paragraph" and insert "subsection".

On page 6, line 3, strike out "social security numbers" and insert "Any social security number".

On page 6, line 3, strike out "paragraph" and insert "subsection".

On page 6, line 4, strike out "will" and insert "may".

On page 6, line 4, insert "the" after "verification of".

On page 7, strike out lines 10 through 16, and insert the following:

(b) Such section is amended by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3) of this subsection, prior to collecting any indebtedness of an individual under paragraph (1) of this subsection, the head of the agency collecting the debt or his designee, shall provide the individual—

"(A) written notification of the nature and amount of the indebtedness, the agency's intention to collect the debt through salary offsets, and an explanation of his rights under this subsection;

"(B) an opportunity to inspect and copy the agency's records with respect to the debt;

"(C) an opportunity for the review of the determination of the agency with respect to the indebtedness of the individual; and

"(D) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, for the repayment of the debt.

"(3) If any employee from whom deductions were made under paragraph (1) of this subsection retires or resigns or if his employment or period of active duty otherwise ends before collection of the amount of the indebtedness is completed, deductions shall be made from payments of any nature due the individual from the agency for his retirement or retired pay.

"(4) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.".

On page 8, lines 10 through 12, strike out "return information relating to the amount, if any, of any outstanding liability of a Federal loan applicant" and insert "whether a Federal loan applicant has an outstanding liability".

On page 8, line 16, strike out "return".

On page 8, beginning with "the outstanding" in line 18, strike out through the end of line 19 and insert "whether an applicant for a Federal loan has outstanding liabilities. Information regarding outstanding liabilities which are in dispute shall not be disclosed under subparagraph (A).".

On page 11, beginning with "Pursuant to" in line 12, strike out through "designee," in line 14, and insert the following: "Whenever the head of an agency or his designee attempts to collect a claim of

the United States under section 3(a) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952 (a)), he".

On page 11, strike out lines 22 and 23 and insert the following:

SEC. 10. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding the following new subsection:

On page 11, line 24, strike out "INTEREST AND PENALTY.—".

On page 11, line 25, strike out "subsection (3)" and insert in lieu thereof "paragraph (3)".

On page 12, line 13, strike out "subsection (3)" and insert in lieu thereof "paragraph (3)".

On page 12, line 19, strike out "subsections" and insert in lieu thereof "paragraphs".

On page 13, strike out lines 9 through 11, and insert the following:

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding the following new subsection:

On page 13, line 12, insert "(e)" before "Service".

On page 13, line 16, strike out the comma and insert "with".

On page 13, line 16, insert a comma after "requested".

On page 14, beginning with "The report" in line 3, strike out through the period in line 5, and insert the following:

"The report shall contain information regarding—

"(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

"(2) the total amount of receivables and number of claims that are at least 30 days past due;

"(3) the total amount written off as uncollectable, actual, and allowed for;

"(4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

"(5) the total number of claims and total amount collected;

"(6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

"(7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and

"(8) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.".

On page 14, after line 10, add the following new section:

CONTRACTS FOR COLLECTION SERVICES

SEC. 13. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding the following new subsection (f):

"(f) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, the head of an agency or his designee may enter into a contract with any person or organization under such terms and conditions as the head of the agency or his designee considers appropriate for collection services in recovering indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and initiate legal action and that the contractor shall be subject to the Privacy Act of 1974, section 552a of title 5, United States Code, and, when applicable, to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act.".

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